

AMENDED IN ASSEMBLY JULY 2, 2008
AMENDED IN ASSEMBLY JUNE 16, 2008
AMENDED IN SENATE MAY 27, 2008

SENATE BILL

No. 1515

Introduced by Senator Kuehl

February 21, 2008

An act to add Article 5.5 (commencing with Section 49010) to Chapter 6 of Part 27 of Division 4 of Title 2 of the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

SB 1515, as amended, Kuehl. Pupil discipline: restraint and seclusion.

Existing law prohibits a person employed by or engaged in a public school to inflict, or cause to be inflicted, corporal punishment upon a pupil.

This bill would prohibit an educational provider from using chemical restraint or seclusion, as defined. The bill would limit the use of behavioral, physical, and mechanical restraint, as defined. This bill would specify conditions under which an educational provider would be authorized to use behavioral restraint.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 5.5 (commencing with Section 49010) is
- 2 added to Chapter 6 of Part 27 of Division 4 of Title 2 of the
- 3 Education Code, to read:

Article 5.5. Restraint and Seclusion

49010. The Legislature finds and declares all of the following:
(a) Seclusion and restraint are known to cause trauma and injury to both the individual subjected to these techniques and the personnel executing them.

(b) The use of seclusion and behavioral restraint are not therapeutic or educational, and their use does not positively change behavior.

49011. For purposes of this article, the following definitions apply:

(a) “Behavioral restraint” means mechanical restraint or physical restraint used as an intervention when a pupil presents an imminent risk of serious physical harm to self or others. Behavioral restraint does not include restraints used for postural support or devices used to improve a pupil’s mobility and independent functioning rather than to restrict movement.

(b) “Chemical restraint” means the administration of a drug or medication to manage a pupil’s behavior or restrict a pupil’s freedom of movement that is not a standard treatment and dosage for the pupil’s medical or psychiatric condition.

(c) “Department” means the State Department of Education.

(d) “Educational provider” means an entity or a person that does both of the following:

(1) Receives support in any form from a program supported in whole or in part with funds appropriated by the department.

(2) Provides educational or related services, supports, or other assistance to individuals in a public or private elementary or secondary school.

Educational provider includes all local educational agencies, including charter schools, the California School for the Deaf, the California School for the Blind, nonpublic schools, and nonpublic agencies, *including both in-state and out-of-state nonpublic schools and nonpublic agencies*.

(e) “Mechanical restraint” means the use of a mechanical device, material, or equipment attached or adjacent to the pupil’s body that he or she cannot easily remove that restricts the freedom of movement of all or part of a pupil’s body, or restricts normal access to the pupil’s body, and that is used as a behavioral restraint.

(f) “Physical restraint” means the use of a manual hold to restrict freedom of movement of all or part of a pupil’s body, or to restrict normal access to the pupil’s body, that is used as a behavioral restraint. Physical restraint is a staff-to-pupil physical contact in which the pupil unwillingly participates. Physical restraint does not include briefly holding a pupil without undue force in order to calm or comfort or to prevent an isolated incident of unpredictable and spontaneous unsafe behavior, such as running into traffic or engaging in a physical altercation, or physical contact intended to gently assist or prompt a pupil in performing a task or to guide or assist a pupil from one area to another.

(g) “Seclusion” means the involuntary confinement of a pupil alone in a room or area from which the pupil physically is prevented from leaving. *“Seclusion” does not mean a supervised timeout.*

49012. An educational provider may use behavioral restraint only if all of the following conditions are met:

(a) It is an emergency situation and behavioral restraint is required to prevent imminent serious physical harm to the pupil, staff, or others.

(b) The educational provider has determined that less restrictive alternatives and positive behavioral supports are ineffective.

(c) A staff member is continuously present and keeps the pupil under constant face-to-face observation for signs of distress or respiratory compromise.

49013. (a) An educational provider shall not use seclusion or chemical restraint.

(b) An educational provider shall not use behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation by staff.

(c) An educational provider shall not use any of the following:

(1) A physical restraint technique that obstructs a pupil’s respiratory airway or impairs the pupil’s breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil’s back or places his or her body weight against the pupil’s torso or back.

(2) A pillow, blanket, or other item covering the pupil’s face as part of a physical or mechanical restraint.

(3) An improvised restraint device, such as a sheet or belt.

(4) A physical or mechanical restraint on a pupil who has a known medical, psychological, or physical condition, and where there is reason to believe that the use would endanger the pupil's life or seriously exacerbate the medical, psychological, or physical condition of the pupil. Known risk factors include a history of trauma or abuse, obesity, agitated or excited syndromes, preexisting heart disease, and respiratory conditions, including bronchitis or asthma.

(5) Placement of a pupil in a facedown position with the pupil's hands held or restrained behind his or her back.

(6) Physical or mechanical restraint as an extended procedure.

(d) An educational provider shall avoid the deliberate use of prone restraint techniques whenever possible.

49014. It is the intent of the Legislature that, except where this article may grant more protections, this article shall be interpreted as being consistent with Chapter 5.5 (commencing with Section 56520) of Part 30 and its implementing regulations commencing with Section 3052 of Title 5 of the California Code of Regulations.